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**No. 157**

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**In the Supreme Court of the United States**

**OCTOBER TERM, 1955**

**MASSACHUSETTS BONDING AND INSURANCE COMPANY  
AND KATHLEEN F. CROWLEY, ADMINISTRATRIX OF  
ESTATE OF JEREMIAH C. CROWLEY, PETITIONERS**

**UNITED STATES OF AMERICA**

**ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED  
STATES COURT OF APPEALS FOR THE FIRST CIRCUIT**

**MEMORANDUM FOR THE UNITED STATES IN  
OPPOSITION**

**ARTHUR E. SCHLESINGER**  
**Solicitor General,**  
**Department of Justice,**  
**Washington 25, D. C.**

# In the Supreme Court of the United States

OCTOBER TERM, 1955

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No. 657

MASSACHUSETTS BONDING AND INSURANCE COMPANY  
AND KATHLEEN F. CROWLEY, ADMINISTRATRIX OF  
ESTATE OF JEREMIAH C. CROWLEY, PETITIONERS

v.

UNITED STATES OF AMERICA

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ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED  
STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

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## MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

As is evident from the two exhaustive opinions of the court of appeals in this case (R. 13-24, 27-37), resolution of the question petitioner raises *viz.*, whether the damages recoverable under the Federal Tort Claims Act in an action for wrongful death which occurred in Massachusetts may exceed the \$20,000 maximum fixed by the Massachusetts Death Statute, turns on issues of both federal and local law. In the light of that court's full and detailed treatment of the federal and local law prob-

lems involved, we think it unnecessary to rehearse or paraphrase the court's exposition, particularly in view of that court's expert knowledge of Massachusetts law and the special competence in tort law of the author of the opinions (Chief Judge Magruder). We submit, for the reasons set forth in the two opinions of the court of appeals, that the judgment below is clearly correct.

There is not, and probably never will be, a conflict on this question since, as the petition concedes (Pet. 6-7), Massachusetts is the only state with a punitive death statute of general application which places maximum limits on the recovery.<sup>1</sup> No problem of general importance is presented and further review is, therefore, not warranted.

Respectfully submitted,

SIMON E. SOBELOFF,  
*Solicitor General.*

FEBRUARY 1956.

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<sup>1</sup> Should a Massachusetts wrongful death action come before some other court of appeals, under the peculiar venue provisions of the Tort Claims Act, it may safely be assumed that that court would follow the carefully reasoned opinions in this case, both because of their soundness and because of the natural deference which would attach to any interpretation of Massachusetts law by the Court of Appeals for the First Circuit.